

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TEXTRON INNOVATIONS INC.,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 05-486 (GMS)
)	
THE TORO COMPANY,)	
)	
Defendant.)	

**DECLARATION OF MICHAEL P.F. PHELPS, ESQ.
IN SUPPORT OF PLAINTIFF TEXTRON INNOVATION INC.'S
RESPONSIVE BRIEF IN SUPPORT OF ITS PROPOSED CLAIM CONSTRUCTION**

Dated: August 18, 2006

Edmond D. Johnson (#2257)
Peter B. Ladig (#3513)
THE BAYARD FIRM
222 Delaware Avenue
Suite 900
P.O. Box 25130
Wilmington, DE 19801
(302) 655-5000

-and-

OF COUNSEL:

Scott L. Robertson
Christopher C. Campbell
HUNTON & WILLIAMS LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109
Telephone: (202) 955-1500
Facsimile: (202) 778-2201

**ATTORNEYS FOR PLAINTIFF
TEXTRON INNOVATIONS INC.**

I, Michael P. F. Phelps, Esq., depose, declare and state as follows:

1. My name is Michael P. F. Phelps. I am an associate in the law firm of Hunton & Williams LLP, attorneys for the Plaintiff. I am over 18 years old, and the facts stated herein are based on my own personal knowledge, and if called at trial, I could and would testify competently as to those facts.

2. Attached hereto as Exhibit 1 is a true and correct copy of U.S. Patent No. 6,484,481.

3. Attached hereto as Exhibit 2 is a true and correct copy of the Supplemental Declaration Of Dr. Richard L. Parish, PHD, PE, In Support Of Textron's Proposed Claim Construction For Certain Claim Terms In U.S. Patent Nos. 6,047,530 6,336,311 And 6,336,312.

4. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No. 6,470,663.

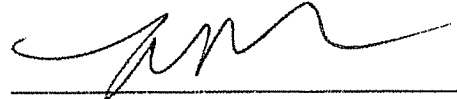
5. Attached hereto as Exhibit 4 is a true and correct copy of U.S. Patent No. 5,191,756.

6. On August 16, 2006, I performed a search on the United States Patent and Trademark Office's database web portal, <http://patft.uspto.gov/netahtml/PTO/search-adv.htm>, using the boolean search string "an/'the toro company' and aclm/substantially." The term "an/" refers to the assignee name, and the term "aclm/" refers to the patent claims. The foregoing search returned a list of one hundred ninety-five patents satisfying the search terms. Attached hereto as Exhibit 5 is a complete listing of the results from the foregoing search.

7. Attached hereto as Exhibit 6 is a true and correct copy of U.S. Patent No. 3,359,661.

8. Attached hereto as Exhibit 7 is a true and correct copy of *Pfizer, Inc. v. Ranbaxy Laboratories Ltd.*, --- F.3d ----, 2006 WL 2137244 (C.A.Fed.), 79 U.S.P.Q.2d 1583.

Signed under the pains and penalties of perjury, this 18th day of August, 2006.



Michael P. F. Phelps